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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,280	11/19/2003	Anthony D'Andrea		7404

7590 07/14/2005  
Mr. Walter J. Tencza Jr.  
Suite 3  
10 Station Palce  
Metuchen, NJ 08840

EXAMINER

LOWE, MICHAEL S

ART UNIT PAPER NUMBER

3652

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/717,280

Applicant(s)

D'ANDREA, ANTHONY

Examiner

M. Scott Lowe

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Goodall (US 5,561,986).

Re claim 1, Goodall teaches (figure 1) an apparatus comprising:  
a base 48 having first and second slots (not numbered);  
a cold storage unit 10 placed on top of the base;  
wherein a first prong of a forklift (not numbered) can be inserted into the first slot and a second prong can be inserted into the second slot;  
and wherein with the first prong inserted into the first slot and the second prong inserted into the second slot, the forklift can lift up the base and the cold storage unit.

Re claim 2, Goodall teaches (figure 1) wherein the base 48 has third and fourth slots (not numbered);

Art Unit: 3652

wherein the first prong can be inserted into the third slot and the second prong can be inserted into the fourth slot; and wherein with the first prong inserted into the third slot and the second prong inserted into the fourth slot, the forklift (not numbered) can lift up the base and the cold storage unit 10.

Re claim 3, Goodall teaches (figure 1) the first and the second slots (not numbered) are substantially perpendicular to the third and the fourth slots.

Claims 4-5 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Goodall (US 5,561,986) in view of Elder (US 6,209,464).

If the applicant believes that Goodall as set forth does not teach forklifts, then the following rejection applies:

Re claim 4, Goodall teaches (figure 1) a method comprising the steps of:  
placing a cold storage unit 10 on top of a base 48;  
inserting a first prong of a forklift into a first slot of a base and a second prong of the forklift into a second slot of the base 48; and  
with the first prong in the first slot and the second prong in the second slot using the forklift to lift up the base and the cold storage unit 10.

Elder (column 2, line 66) teaches having a forklift inserting prongs (tines) in slots into a base to facilitate transport.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Goodall by Elder (column 2, last paragraph) in order to

Art Unit: 3652

facilitate transport to have a forklift inserting prongs (tines) into the slots to lift the base and cold storage unit.

Re claim 5, Goodall teaches (figure 1) inserting the first prong of the forklift into a third slot of the base and the second prong of the forklift into a fourth slot of the base; wherein the first and second slots are substantially perpendicular to the third and the fourth slots; and with the first prong in the third slot and the second prong in the fourth slot using the forklift to lift up the base and the cold storage unit.

If the applicant believes that Goodall as set forth does not teach forklifts, then the following rejection applies:

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Goodall by Elder (column 2, last paragraph) to have a forklift inserting prongs (tines) into the slots to lift the base and cold storage unit.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wolf (US 2004/0126221) teaches a similar device and method.

Bosher (US 6,615,908) teaches a similar device and method.


Hagenzieker (US 6,575,686) teaches a similar device and method.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is (571) 272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6607. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

msl

  
**EILEEN D. LILLIS**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600